

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE REQUIREMENT TO HAVE A CLASS D MOTOR CARRIER CERTIFICATE IN ORDER TO ENGAGE IN THE BUSINESS OF HAULING GARBAGE OUTSIDE THE LIMITS OF AN INCORPORATED CITY OR TOWN; PROVIDING THAT A CLASS D MOTOR CARRIER CERTIFICATE IS NOT REQUIRED FOR THE REMOVAL OF MATERIAL FROM A CONSTRUCTION SITE; PROVIDING THAT A MOTOR CARRIER CERTIFICATE IS NOT EFFECTIVE AFTER THE REQUIREMENT TO HAVE A MOTOR CARRIER CERTIFICATE IS REMOVED; REMOVING THE REQUIREMENT THAT EXISTING GARBAGE AND SOLID WASTE SERVICES MUST BE PRESERVED IN THE EVENT OF AN ANNEXATION; AMENDING SECTIONS 7-2-4205, 7-2-4305, 7-2-4506, 7-2-4610, 69-12-301, 69-12-314, AND 69-12-323, MCA; AND REPEALING SECTION 7-2-4736, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-2-4205, MCA, is amended to read:

"7-2-4205. Provision of services. In all cases of annexation under current Montana law, services must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

_____ (1) ~~as provided in 7-2-4736; and~~

_____ (2) in first-class cities when otherwise mutually agreed upon by the municipality and the real property owners of the area to be annexed."

Section 2. Section 7-2-4305, MCA, is amended to read:

"7-2-4305. Provision of services. In all cases of annexation under current Montana law, services must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

_____ (1) ~~as provided in 7-2-4736; and~~

_____ (2) in first-class cities when otherwise mutually agreed upon by the municipality and the real property owners of the area to be annexed."

Section 3. Section 7-2-4506, MCA, is amended to read:

1 **"7-2-4506. Provision of services.** In all cases of annexation under current Montana law, services must
2 be provided according to a plan provided by the municipality as specified in 7-2-4732, except:
3 ~~—— (1) as provided in 7-2-4736; and~~
4 ~~—— (2) in first-class cities, when otherwise mutually agreed upon by the municipality and the real property~~
5 owners of the area to be annexed."

6
7 **Section 4.** Section 7-2-4610, MCA, is amended to read:

8 **"7-2-4610. Provision of services.** In all cases of annexation under current Montana law, services must
9 be provided according to a plan provided by the municipality as specified in 7-2-4732, except:
10 ~~—— (1) as provided in 7-2-4736; and~~
11 ~~—— (2) in first-class cities, when otherwise mutually agreed upon by the municipality and the real property~~
12 owners of the area to be annexed."

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14 **Section 5.** Section 69-12-301, MCA, is amended to read:

15 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into four classes to be
16 known as:

- 17 (a) Class A motor carriers;
18 (b) Class B motor carriers;
19 (c) Class C motor carriers; and
20 (d) Class D motor carriers.

21 (2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular
22 route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or
23 scale.

24 (3) Class B motor carriers include all motor carriers operating under regular rates or charges based
25 upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a
26 regular route.

27 (4) Class C motor carriers include all motor carriers ~~where~~ for which the remuneration is fixed in and
28 the transportation service is furnished under a contract, charter, agreement, or undertaking.

29 (5) Class D motor carriers include all motor carriers operating motor vehicles transporting garbage
30 within the limits of an incorporated city or town."

1
2 **Section 6.** Section 69-12-314, MCA, is amended to read:

3 **"69-12-314. Class D motor carrier certificate.** (1) Class D carriers shall conduct operations pursuant
4 to a certificate of public convenience and necessity issued by the commission authorizing the transportation of
5 the commodities described in 69-12-301(5). Class D carriers when applying for a new or additional authority shall
6 file an application with the commission in accordance with the requirements of this chapter and the rules of the
7 commission.

8 (2) A motor carrier may not possess a Class D motor carrier certificate or operate as a Class D motor
9 carrier unless the motor carrier actually engages in the transportation of garbage on a regular basis as part of
10 the motor carrier's usual business operation.

11 (3) A Class D motor carrier certificate is not required for the removal of material from a construction site
12 within the limits of an incorporated city or town."

13
14 **Section 7.** Section 69-12-323, MCA, is amended to read:

15 **"69-12-323. Decision on application.** (1) The commission ~~must~~ shall issue, within 180 days ~~from and~~
16 after the date of the completed filing of ~~said an~~ an application, its finding, order, or decision on ~~said the~~ the application
17 and the evidence presented in support ~~thereof of the application~~ at the time of said the hearing. The commission
18 may extend the ~~foregoing~~ time for the decision to a date requested by the applicant.

19 (2) (a) If after a hearing upon an application for a certificate, the commission finds from the evidence
20 that public convenience and necessity require the authorization of the service proposed or any part ~~thereof of~~
21 the service, as the commission ~~shall determine~~ determines, a certificate ~~therefor shall~~ must be issued. In
22 determining whether a certificate should be issued, the commission shall give reasonable consideration to:

23 (i) the transportation service being furnished or that will be furnished by any railroad or other existing
24 transportation agency;

25 (ii) and shall give due consideration to the likelihood of the proposed service being permanent and
26 continuous throughout 12 months of the year; and

27 (iii) the effect which that the proposed transportation service may have upon other forms of
28 transportation service which that are essential and indispensable to the communities to be affected by such the
29 proposed transportation service or that might be affected thereby by the proposed transportation service.

30 (b) For purposes of Class D certificates, a determination of public convenience and necessity may

1 include a consideration of competition.

2 (3) The commission may issue the certificate as ~~prayed for~~ requested or issue it for the partial exercise
3 only of the privilege sought and may attach to the exercise of the rights granted by ~~such the~~ certificate ~~such~~
4 terms and conditions ~~as that~~ in its judgment the public convenience and necessity may require. When a
5 certificate has ~~once~~ been issued to a motor carrier as provided in this part, ~~such the~~ certificate ~~shall~~ must
6 continue in force until terminated by the commission for cause as ~~herein~~ provided in this part, ~~or~~ until terminated
7 by the owner's failure to comply with 69-12-402, or until the requirement for a certificate is removed."

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9 NEW SECTION. **Section 8. Repealer.** Section 7-2-4736, MCA, is repealed.

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